

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

FILED

UNITED STATES OF AMERICA
Plaintiff

vs

JOSE TREVINO-MORALAS
Defendant

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OCT 17 2022

CLERK U S DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY DEPUTY CLERK

No. A-12-CR-210(3)-SS

PRO SE MOTION TO EXPEDITE THE GOVERNMENT'S
RESPONSE TO MOTION FOR SENTENCE REDUCTION

Comes now, Jose Trevino-Moralas, defendant, pro se, with a motion to expedite the government's response to motion for sentence reduction.

The defendant has friends and family reviewing Pacer for the ordered response due October 5, 2022. As of October 10, 2022, no response has been filed. Is it because they do not oppose defendant's motion or did they file for an extension.

If they did ask for an extension, this pro se motion is humbly asking the court to expedite that response reason to expedite.

Even though COVID cases continue to increase nationwide, even though the BA.5 Omicron variant continues to evade fully vaccinated Americans, F.C.I. La Tuna, is now "Code Green" (see exhibit 5), even though another COVID-19 outbreak just occurred at La Tuna. (see exhibit 4)

On October 4, 2022 the USA Today had a COVID-19 article (page 4A) that had as its headline, "Officials Urge Bivalent

Boosters to Fight Predicted Rise in COVID Cases". The article reported 13 states that reported more COVID cases than the previous week and reported that 20 states reported more COVID deaths than the previous week citing data from John Hopkins University.

The article reported only 1.5% of American's received the new Bivalent Booster designed to target the more contagious BA.5 Omicron subvariant. This recommended "Bivalent Booster" is not available for Federal Inmates. The defendant has multiple health issues that, per the CDC, put him at risk if he becomes reinfected of severe illness or death. If granted home confinement he can seek out a local provider of the Bivalent Booster, he can practice social distancing, and he can wear a protective mask.

Code Green at La Tuna means that both fellow inmates and staff are no longer required to wear masks. All it takes is one staff member to bring in the BA.5 virus and La Tuna will have yet another COVID outbreak. (see exhibit One and Two of Original Motion).

The October 4, 2022 USA Today article also reported that experts urge everyone to get their "Bivalent Boosters" now as it takes two weeks to develop BA.5 antibodies...."They expect Coronavirus cases to rise in the coming months.

Quote: "Even under normal circumstances, prisons are tinder boxes for infectious disease." (see **United States v Somerville**, 463 F.Supp. 3d 585 (W.D. PA. 2020)).

On September 20, 2022, the USA Today reported on Page 5A, "nearly 3,000 Americans are still dying from COVID each week." It also reported, "Officials are encouraging people to get boosted ahead of possible fall and winter wave of infections. They've

asked congress for \$22.4 Billion in emergency Corona Virus funding". It doesn't sound like the COVID pandemic is over.

Lastly, the article reported that "...John Hopkins University data shows more than 13,000 deaths... were reported in the last month..." Expediting the government's response will lead to a quicker answer- Time served and a special condition of home confinement added to his supervised release will allow the defendant to obtain his Bivalent Booster sooner. If the two shot vaccinations, if the previous boosters work against the BA.5 Omicron variant, why any urgent need for the Bivalent Booster?

CONCLUSION

The government's late response will most likely be a one size fits all custom response stating there isn't a COVID risk and that an inmate is protected because he is vaccinated. The quicker the response is sent to the defendant, the sooner the defendant can send an official reply asking for an expedited ruling.

Please liberally construe this pro se motion.

SINCERELY,

JOSE TREVINO

JOSE TREVINO-MORALAS
REG# 27585-064
F.C.I. LA TUNA
PO BOX 3000
ANTHONY, NM 88021

CERTIFICATION

I, Jose Trevino-Moralas, defendant, pro se, certify that this motion is true to the best of my knowledge. It is sent from prison, Pursuant to 28 U.S.C. §1746 and is self notarized.

SIGNED:

JOSE TREVINO-MORALAS 10/10/22

LETTER OF CERTIFICATION

I, Jose Trevino-Moralas states a true copy was sent to the Clerk of Court at the address below. It was sent certified mail with correct postage via the Prison Mailbox Rule.

SIGNED:

JOSE TREVINO 10/10/22
JOSE TREVINO-MORALAS

TO:

CLERK OF COURT
WESTERN DISTRICT OF TEXAS
501 WEST 5TH STREET
AUSTIN, TEXAS 78701

FROM:

JOSE TREVINO-MORALAS
REG# 27585-064
F.C.I. LA TUNA
PO BOX 3000
ANTHONY, NM 88021

EXHIBIT 14

08/19/2022 - The BOP has 141,360 federal inmates in BOP-managed institutions and 14,009 in community-based facilities. The BOP staff complement is approximately 36,000. There are 613 federal inmates and 651 BOP staff who have confirmed positive test results for COVID-19 nationwide. Currently, 49,267 inmates and 13,533 staff have recovered. There have been 306 federal inmate deaths and 7 BOP staff member deaths attributed to COVID-19 disease. Of the inmate deaths, 11 occurred while on home confinement.

Due to the rapidly evolving nature of this public health crisis, the BOP will update the open COVID-19 confirmed positive test numbers, recoveries, and the number of COVID-19 related deaths each weekday at 3:00 p.m. The positive test numbers are based on the most recently available confirmed lab results involving open cases from across the agency as reported by the BOP's Office of Occupational Safety and Health at 11:00 a.m. each day. BOP field sites may report additional updates throughout the day. Data is subject to change based on additional reporting. Note: reported staff deaths have been determined to be work-related as defined by 29 CFR 1904 (OSHA Recordkeeping standard). As such, they have been recorded on the respective institution's OSHA 300 injury and illness log as a work-related fatality.

The BOP tests inmates in accordance with CDC guidance. The BOP utilizes this information for the management of an outbreak at the relevant, affected facility.

The inmate totals listed do not include inmates participating in the Federal Location Monitoring program, inmates supervised under the USPO, or being held in privately managed prisons or state facilities/jails. References to RRCs include both individuals housed at the RRC and individuals on home confinement under the RRC's supervision.

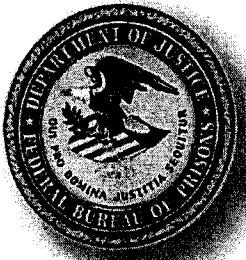
<u>Facility</u>	<u>Inmates Positive</u>	<u>Staff Positive</u>	<u>Inmate Deaths</u>	<u>Staff Deaths</u>	<u>Inmates Recovered</u>	<u>Staff Recovered</u>	<u>City</u>	<u>State</u>
La Tuna FCI	79	10	2	0	496	126	Anthony	
Milan FCI	4	0	3	0	255	87		Milan
Elkton FCI	5	0	9	0	584	116		Lisbon

EXHIBIT 14

Because the vaccines and boosters cannot prevent COVID-19 infections from the Omicron subvariant (BA.5) once the virus enters a prison it spreads like a wild fire. FCI-La Tuna is now back to Code Green staff and most inmates are no longer wearing masks

As of 8/29/22, 1 inmates with COVID plus
 NOW 580 RECOVERED (8/29/22)

10 staff with COVID, BA.5 Omicron is STILL contagious!



FCI/SCP LA TUNA

INMATE BULLETIN

EXHIBIT 5

BOP COVID-19 Pandemic Plan Update

As a reminder, since September 8, 2022, FCI La Tuna enter Level 1 (Green) modified operations. As a result, face coverings are optional for all staff and inmates for institutions operating at Level 1 Modified Operations (Green), except for patient care areas, i.e. FCI and Camp Health Services Department and the SHU Medical Examination Room, where they will remain mandatory. Inmates choosing to wear masks, may receive them weekly from Unit Team Staff. After hours, inmates may request them from Health Services or Custody staff.

Face coverings are required for all staff and inmates in indoor settings for institutions operating at Level 2 (Yellow) or Level 3 (Red) Modified Operations.

Please continue to adhere to all requirements for each modified operation level.


S. Hajar, Warden

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